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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/578,690	10/30/2006	Ursula Maier	27395U	4412

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EXAMINER	
MRUK, BRIAN P	

ART UNIT	PAPER NUMBER
1796	

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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)	
	10/578,690	MAIER, URSULA	
	Examiner	Art Unit	
	Brian P. Mruk	1796	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE *3* MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *14 June 2007*.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-26* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-26* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☒ All b)☐ Some * c)☐ None of:

1.☒ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☒ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date *6/14/07 & 10/30/06*.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

Priority

1. Receipt is acknowledged of papers submitted under 35 U.S.C. 119(a)-(d), which papers have been placed of record in the file.

2. The examiner makes of record that instant claims 2-7, 9, 11-15, 17-18 and 20-26 recite a broad range of components followed by a series of narrow range of components (i.e. with the terms "preferably" and "in particular"). For examination purposes, the examiner asserts that the narrow ranges/components recited in instant claims 2-7, 9, 11-15, 17-18 and 20-26 are merely exemplary ranges/components, and thus, the prior art will be applied against the broadest ranges/components recited in instant claims 2-7, 9, 11-15, 17-18 and 20-26. Furthermore, the examiner suggests that applicant should delete the narrow ranges/components from instant claims 2-7, 9, 11-15, 17-18 and 20-26, and add new dependent claims that recite the narrow ranges/components recited in instant claims 2-7, 9, 11-15, 17-18 and 20-26.

Claim Rejections - 35 USC § 112

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

> The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4. Claims 1-10 and 21-26 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

5. Claims 1-10 and 23-26 provide for the use of a solution, but, since the claims do not set forth any steps involved in the method/process, it is unclear what method/process applicant is intending to encompass. A claim is indefinite where it merely recites a use without any active, positive steps delimiting how this use is actually practiced.

Claims 1-10 and 23-26 are rejected under 35 U.S.C. 101 because the claimed recitation of a use, without setting forth any steps involved in the process, results in an improper definition of a process, i.e., results in a claim which is not a proper process claim under 35 U.S.C. 101. See for example *Ex parte Dunki*, 153 USPQ 678 (Bd.App. 1967) and *Clinical Products, Ltd.* v. *Brenner*, 255 F. Supp. 131, 149 USPQ 475 (D.D.C. 1966).

6. Claim 21 recites the limitation "formula I" in line 4. There is insufficient antecedent basis for this limitation in the claim. Specifically, the examiner notes that claim 11, from which claim 21 depends from, does not contain the term "formula I". The examiner suggests that claim 21 should be amended to depend from claim 12 to provide proper antecedent basis for the term "formula I". Appropriate correction and/or clarification is required.

Claim 22 contains the trademarks/trade names "Sokalan HP 56" and "Rimapur CX". Where a trademark or trade name is used in a claim as a limitation to identify or describe a particular material or product, the claim does not comply with the

requirements of 35 U.S.C. 112, second paragraph. See *Ex parte Simpson*, 218 USPQ 1020 (Bd. App. 1982). The claim scope is uncertain since the trademark or trade name cannot be used properly to identify any particular material or product. A trademark or trade name is used to identify a source of goods, and not the goods themselves. Thus, a trademark or trade name does not identify or describe the goods associated with the trademark or trade name. In the present case, the trademarks/trade names are used to identify/describe products and, accordingly, the identifications/descriptions are indefinite. Appropriate correction and/or clarification is required.

Claim Rejections - 35 USC § 102

7. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claim Rejections - 35 USC § 103

8. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

9. Claims 1-20 and 23-26 are rejected under 35 U.S.C. 102(b) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over Blodinger, U.S. Patent No. 3,069,359.

Blodinger, U.S. Patent No. 3,069,359, discloses a germicidal detergent composition comprising 5-40% by weight of an anionic surfactant, 0.1-3% by weight of neomycin, and 0.1-20% by weight of a nonionic surfactant, wherein the resulting composition has a pH of 5-7 (see col. 1, lines 9-42). It is further taught by Blodinger that suitable nonionic surfactants include Triton X-100 (see col. 1, line 67-col. 2, line 4), and that the composition contains water (see col. 2, lines 52-64), per the requirements of the instant invention. Specifically, note Examples 1-3. Furthermore, the examiner asserts that "The fact remains that one of ordinary skill informed by the teachings of Blodinger would not have had to choose judiciously from a genus of possible combinations to obtain the very subject matter to which appellant's composition per se claims are directed." *In re Sivaramakrishnan, 213 USPQ 441 (CCPA 1982).* Therefore, instant claims 1-20 and 23-26 are anticipated by Blodinger, U.S. Patent No. 3,069,359.

In the alternative that the above disclosure is insufficient to anticipate the above listed claims, it would have nonetheless been obvious to the skilled artisan to produce the claimed composition, as the reference teaches each of the claimed ingredients within the claimed proportions for the same utility.

10. Claims 1-20 and 23-26 are rejected under 35 U.S.C. 102(b) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over Blodinger, U.S. Patent No. 3,069,358.

Blodinger, U.S. Patent No. 3,069,358, discloses a germicidal detergent composition comprising 5-40% by weight of an anionic surfactant, 0.5-5% by weight of hexachlorophene, 0.1-3% by weight of neomycin, and 1-40% by weight of a nonionic surfactant, wherein the resulting composition has a pH of 5-7 (see col. 1, line 22-col. 2, line 22). It is further taught by Blodinger that suitable nonionic surfactants include Triton X-100 (see col. 2, lines 3-22), and that the composition contains water (see col. 3, lines 9-12), per the requirements of the instant invention. Specifically, note Examples 1-5. Furthermore, the examiner asserts that "The fact remains that one of ordinary skill informed by the teachings of Blodinger would not have had to choose judiciously from a genus of possible combinations to obtain the very subject matter to which appellant's composition per se claims are directed." *In re Sivaramakrishnan, 213 USPQ 441 (CCPA 1982).* Therefore, instant claims 1-20 and 23-26 are anticipated by Blodinger, U.S. Patent No. 3,069,358.

In the alternative that the above disclosure is insufficient to anticipate the above listed claims, it would have nonetheless been obvious to the skilled artisan to produce the claimed composition, as the reference teaches each of the claimed ingredients within the claimed proportions for the same utility.

11. Claims 1-20 and 23-26 are rejected under 35 U.S.C. 102(b) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over Dobrin, U.S. Patent No. 4,464,293.

Dobrin, U.S. Patent No. 4,464,293, discloses a liquid cleanser-disinfectant composition comprising 50-91% by volume of isopropyl alcohol, 0.5-1.5% by volume of

a skin emollient, 0.19-2.5% by volume of a scent, 0.3-15% by volume of a cationic detergent, 0.5-8% by volume of a nonionic detergent, and water to balance (see abstract and col. 2, lines 23-60). It is further taught by Dobrin that suitable nonionic surfactants include Triton X-100 (see col. 2, lines 57-60), per the requirements of the instant invention. Specifically, note Examples I-VI. Although Dobrin is silent with respect to the pH of their compositions, the examiner asserts that the detergent products disclosed in Examples I-VI of Dobrin would inherently meet the pH requirements of the instant invention, since the detergent products disclosed in Examples I-VI of Dobrin contain all of the required components in the amounts required in the instant claims, absent a showing otherwise. Furthermore, the examiner asserts that "The fact remains that one of ordinary skill informed by the teachings of Dobrin would not have had to choose judiciously from a genus of possible combinations to obtain the very subject matter to which appellant's composition per se claims are directed." *In re Sivaramakrishnan, 213 USPQ 441 (CCPA 1982)*. Therefore, instant claims 1-20 and 23-26 are anticipated by Dobrin, U.S. Patent No. 4,464,293.

In the alternative that the above disclosure is insufficient to anticipate the above listed claims, it would have nonetheless been obvious to the skilled artisan to produce the claimed composition, as the reference teaches each of the claimed ingredients within the claimed proportions for the same utility.

12. Claims 1-21 and 23-26 are rejected under 35 U.S.C. 102(b) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over Busch et al, EP 635,565.

Busch et al, EP 635,565, discloses a detergent composition comprising a dye transfer polymer, such as a copolymer of N-vinylimidazole and N-vinylpyrrolidone (see abstract and page 2, lines 9-39). It is further taught by Busch et al that the composition further contains nonionic surfactants, such as Triton X-100 (see page 3, lines 24-35), and adjunct ingredients, such as anionic surfactants (see page 5, lines 3-16), wherein the liquid composition contains water and has a pH of 7-11 (see page 12, lines 31-34), per the requirements of the instant invention. Specifically, note Examples I-II. Furthermore, the examiner asserts that "The fact remains that one of ordinary skill informed by the teachings of Busch et al would not have had to choose judiciously from a genus of possible combinations to obtain the very subject matter to which appellant's composition per se claims are directed." *In re Sivaramakrishnan, 213 USPQ 441 (CCPA 1982).* Therefore, instant claims 1-21 and 23-26 are anticipated by Busch et al, EP 635,565.

In the alternative that the above disclosure is insufficient to anticipate the above listed claims, it would have nonetheless been obvious to the skilled artisan to produce the claimed composition, as the reference teaches each of the claimed ingredients within the claimed proportions for the same utility.

13. The examiner notes that the references cited in the International Search Report as "X" references are cumulative to the art rejections of record, and thus, have not been applied in this Office action in accordance with **MPEP 706.02.**

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Brian P. Mruk whose telephone number is (571) 272-1321. The examiner can normally be reached on Mon-Thurs (7:00 AM-5:30 PM).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Harold Pyon can be reached on (571) 272-1498. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Brian P Mruk/
Primary Examiner, Art Unit 1796

Brian P Mruk
February 11, 2008

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